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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/602,923

06/23/2000

Bernard Duroux

BRI-00039

1036

7590
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P O Box 70098
Rochester Hills, MI 48307

07/12/2007

EXAMINER

SHAFFER, RICKY D

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

07/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/602,923

Applicant(s)

DUROUX ET AL.

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-23 is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamiya et al ('349) in view of Shibuya et al ('838) or Schenk et al ('753).

Tamiya et al discloses a rearview mirror assembly comprising a base (12) for mounting on a vehicle body, a housing (H) pivotally mounted on said base for angular movement about a first axis (see figure 1), a reflective member (25) pivotally mounted in said housing for angular movement about a second pivot axis (see column 4, lines 56-63 and figure 4), an electric motor (M) contained in said housing, said electric motor having an output shaft (44) selectively operable to cause the angular movement of said housing about said first pivot axis at at least a first discrete speed and a controller (C) adapted to control the electric motor to selectively drive the housing about the first pivot axis at said first speed from a deployed position to a parked position or vice-versa and a sensor (Se) for sensing the status of the electric motor, note figures 1, 4, 9, 31, and 42 along with the associated description thereof, except for explicitly stating that the controller is adapted to control the electric motor in such a manner that the motor is capable of operating at a first discrete speed and at a second discrete speed.

Shibuya et al and Schenk et al each teach it is known to selectively control the rotational speed of an electric motor of an exterior rear view mirror assembly, (i.e., swing/folding speed of a side view mirror housing) in the same field of endeavor for the purpose of avoiding an impact or collision with an object or body which may damage the exterior rear view mirror assembly.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the controller of Shibuya et al or Schenk et al to include a controllable swing speed adjustment in order to avoid impact or collision with an object or body which may damage the exterior rear view assembly.

As to the limitations that the mirror assembly includes a counter, it is well known to use counters in association with an electric motor to count the number of revolutions of said motor in the same field of endeavor for the purpose of sensing and controlling the positional orientation of a mirror to a desirable set point or position. Note, by example only, U.S. Patent 5,033,835 to Platzer, Jr.; U.S. Patent 5,080,492 to Platzer, Jr.; Japanese Patent 55-39808 to Saito; Japanese Patent 3-16840 to Kimura et al; and Japanese Patent 3-16841 to Tsuruoka.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sensor and/or motor of Shibuya et al or Schenk et al to include a counter in order to count the number of revolutions of said motor so as to sense and control the positional orientation of the reflective member (i.e., mirror housing) so as to prevent overloading and damage to said motor, as well as positioning or repositioning the reflective member and/or mirror housing to a desirable set point or position.

As to the limitations of claims 3 and 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select speeds of the range/value recited by applicant, since it has been held that discovering an optimum value or workable ranges involves only routine skill in the art. Note *In re Aller*, 105 USPQ 233 and *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

As to the limitations of claims 5 and 19, it is well known to use reflective prism members in the same field of endeavor for the purpose of reducing glare.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify/substitute the reflective member of Shibuya et al or Schenk et al

to include a reflective prism member, as is commonly used and employed in the art, in order to reduce glare.

3. Claims 20-23 are allowed.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

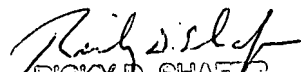
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

July 08, 2007


RICKY D. SHAFER
PATENT EXAMINER
ART UNIT 2872